



# Legal Specialization Digest

Issue 2 2005

<http://www.californiaspecialist.org>

## Message from the Chair

by **Alice J. MacAllister**

*Certified Estate Planning, Trust & Probate Specialist*

**A**s my year as Chair comes to an end, I find myself reflecting on our accomplishments over the past year. On August 14, 2005, 530 California attorneys took the Legal Specialist exam. The exam application, payment, and hotel reservations were available on our website for the first time. The first attorney to register over the web did so within the first day the web sign-up went live. Our advisory commission members worked hard to complete the exam questions and answers. Certified legal specialist attorneys volunteered to pretest in order to help insure the exam's validity.

Effective September 11, 2004, the Board of Governors approved the Board of Legal Specializations's (BLS) request to change the name of the Personal and Small Business Bankruptcy Law specialty to Bankruptcy Law in response to the Advisory Commission's (AC) request to reflect the change in practice.

The National Association of Counsel for Children was certified as an accredited organization offering specialty certification in Juvenile Law (Child Welfare). Attorneys in this field of law represent children, parents or the government in all child protection proceedings including emergency temporary custody, adjudication, disposition, foster care,



**Alice J. MacAllister**

permanency planning, termination, guardianship, and adoption. It does not

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## Public Members Add Unique Perspective to BLS

By **Wes Avery**

*Certified Bankruptcy Law Specialist*

**T**he State Bar has been in existence since 1927 as a non-profit public corporation and as the administrative arm of the California Supreme Court. Since 1977, the State Bar has operated with increased involvement by the public. Beginning that year, six public non-lawyer members were appointed to the Board of Governors; four by the Governor, one by the State Senate Committee on Rules and one by the Speaker of the Assembly.

In 1985, the California Supreme Court made the Legal Specialization

program permanent and, like the Board of Governors, mandated that the Board of Legal Specialization include at least three public members and the Advisory Commission for each specialty include at least one. The Supreme Court did this to recognize "the public service aspect of identifying and establishing criteria for legal specialists." The first public members were appointed that same year. At present, there are three public members on the BLS: Dr. Mike Marshall, Harriet Scott and Teresa Y. Warren, who replaces outgoing member George H. Coughlin II.

M. H. Marshall is a San Francisco

venture capitalist who organized the initial funding for JAMS and was a director of that entity for a number of years. Dr.

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Legal Specialization Digest is published for California's Certified Legal Specialists by the California Board of Legal Specialization

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#### **Message from the Chair**

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include representation in private child custody and adoption disputes where the state is not a party. Lawyers certified in child welfare law must be knowledgeable in the state and Federal laws applicable to child protection and foster care. They must also understand relevant principles from child development and psychology regarding individual and family dynamics and appropriate treatment modalities for child abuse and neglect. These attorneys must also demonstrate that they are capable of recognizing the professional responsibility and ethical issues that arise out of the client's status.

Standards for Certification and Recertification in Real Estate Law went out for public comment and this fall the Board will be reviewing the comments received. We appreciate those who served as members of the consulting group that drafted the standards and the assistance of members from the executive committee of the Real Property Law Section. Five states, Texas, Florida, Arizona, New Mexico, and Minnesota, offer certification in real estate law. Texas, however, breaks the specialty into three separate areas: Commercial, Farm & Ranch, and Residential. Arizona, which offers a general specialty in real estate law, also allows those certified to identify a practice focus area in listing their specialty.

Other new specialty areas under consideration by the Board are personal injury law and franchise law. The State Bar Business Law Section's Franchise Law Committee contacted the Board about establishing specialty status for their area of law. The BLS plans to put together a consulting group in franchise law this fall. The consulting group's task will be to draft proposed standards for certification and recertification in franchise law. If established, California will be the first state offering a specialty in franchise law. It takes approximately 18 months to create a new specialty if everything moves on schedule.

The BLS also received an inquiry concerning establishing specialty status for Admiralty and Maritime law. While Florida has a specialty in this area, the BLS has found that for a specialty area to be self-supporting financially, a minimum of 130 specialists are needed. A sufficient number of attorneys are also needed to support having an advisory commission in the area to draft an exam, review applications for both certification and recertification, and approve educational courses and providers. If the area of law has fewer than 100 specialists, it is better that the specialization be offered by a national organization as is the case with juvenile law (child welfare). Generally, the national organization's program has been approved by the American Bar Association prior to the organization's application to the BLS for certification as an accredited organization.

At the State Bar annual meeting in September, the BLS hosted a breakfast to recognize attorneys who have been Certified Specialists for 20 and 30 years and Certified Specialists who are in judicial service. The BLS also sponsored a booth during the State Bar annual meeting providing information about our program to interested attorneys. I hope you will have stopped by to say hello.

I want to give special recognition to one of our public members, George Coughlin, a financial planner from Walnut Creek. We are finally letting him retire after three years of service on the Estate Planning, Trust and Probate AC, three years on the Taxation AC, and five years on the BLS. I will miss working with him because of his great sense of humor, positive attitude, thoughtful comments and professional expertise.

Lastly, I want to express my gratitude to our State Bar staff and all of the BLS and AC members for their efforts and support this year. They made my job easy and heartwarming. ■

# Technical Notes from Bovitz.com: the Value of Legal Specialization, Malpractice Discounts, and More

## J. Scott Bovitz

### **Certified Bankruptcy Law Specialist**

**L**egal specialization is growing. By the end of 2004, state and private (national) programs had certified more than 30,373 attorneys. In California, we have about 4,000 certified specialists in eight fields: appellate law; bankruptcy law; criminal law; estate planning, trust and probate law; family law; immigration and nationality law; taxation law; and workers' compensation law.

Legal specialization is valuable to its certified specialists. According to a recent study of Minnesota certified specialists, more than 90% of certified specialists would (and do) recommend certification to their attorney colleagues.

Each year, a contingent from the California Board of Legal Specialization attends the Annual Roundtable of the American Bar Association, Standing Committee on Specialization. I had the honor to make presentations at the Roundtable in 2003 and 2005. At each Roundtable, I spoke with certified specialists and their program administrators from around the country. These are the people at the cutting edge of the certification process.

This year, the ABA Roundtable participants tried to identify the benefits of the certification programs to their certified specialists (so they could make the programs even more attractive to candidate specialists).

In a recent Florida survey: 44% of the certified specialists cited prestige and peer recognition as an important reason for certification; and 32% cited professional development as a primary reason for certification. At your first meeting with opposing counsel, certification gives you instant credibility.

Other specialists mention the obvious financial benefits of certification. A certified specialist can justify a higher hourly rate than the going community rate. Recent changes to the Bankruptcy Code expressly authorize bankruptcy courts to consider board certification as a factor in awarding fees. See 11 U.S.C. § 330 (effective October 17, 2005) ("In determining the amount of reasonable compensation to be awarded to an examiner, trustee under chapter 11, or professional person, the court shall consider the nature, the extent, and the value of such services, taking into account all relevant factors, including... with respect to a professional person, whether the person is board certified or otherwise has demonstrated skill and experience in the bankruptcy field...").

There is a misperception that certified specialists are required to pay higher professional liability insurance premiums. While it has been alleged that certified specialists are held to a higher standard of care in their fields, insurance companies recognize that certified specialists are less likely to make silly mistakes. As a result, the common experience of attendees at the ABA Roundtable is that malpractice premiums for specialists are no higher (and often lower) than premiums for non-certified attorneys.

In Florida, a program was established for certified attorneys to receive a 10% discount on malpractice insurance premiums. In California, some brokers (such as Ahern Insurance) have relationships with insurance companies that offer a meaningful discount to certified specialists on malpractice insurance premiums. Under the Ahern program, a law firm will receive a 5% discount on its professional liability premium if one



**J. Scott Bovitz**

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California attorney at a law firm is a legal specialist. If 51% of the California attorneys in a law firm are certified specialists, that law firm can get a 10% discount on its premium. While the California Board of Legal Specialization cannot sponsor or endorse any insurance program, you should ask your own insurance agent about a possible discount.

Some specialists value certification because the public thinks certification is important. In a recent Minnesota survey, more than 81% of the public said that it would be important to know whether their attorneys were certified specialists; 80% consider specialization in a particular field of law to be an important factor when selecting a lawyer. Your

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## Technical Notes

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certification is a shorthand way to prove that you are qualified to work on your client's problem.

According to recent surveys, the public still finds lawyers from: family and friends; the Yellow Pages; and the Internet.

As a specialist, you can make your Yellow Pages advertisement stand out from the crowd. Use your California specialist logo and identify your certification in your advertisements, on your letterhead, and in the signature block on e-mails. Get the certified specialist logo from [http://calbar.ca.gov/state/calbar/calbar\\_generic.jsp?cid=11584&id=9259](http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=11584&id=9259). Remember, Rule of Professional Conduct 1-400(D)(6) provides that an attorney cannot state that the attorney is a **certified** specialist unless the attorney has been certified either by the State Bar of California Board of Legal Specialization or by another certifying body that has been accredited by the State Bar.

Certified specialists receive favorable publicity through: the Internet, via <http://californiaspecialist.org> (which links to a State Bar search engine by specialty field and county at [http://calbar.ca.gov/state/calbar/calbar\\_extend.jsp?cid=11584&id=9185](http://calbar.ca.gov/state/calbar/calbar_extend.jsp?cid=11584&id=9185)); print advertisements (e.g., the "What kind of lawyer becomes a certified specialist" ads in the *California Bar Journal*); and radio (e.g., Chuck Finney's talk show, "Your Legal Rights," broadcast on KALW every Wednesday night and other NPR affiliates on a delayed basis).

Drop me a note ([bovitz@bovitz.com](mailto:bovitz@bovitz.com)) and tell me why YOU became a certified specialist. I plan to write a column summarizing your reasons for certification. ■

# New Members Appointed to Board

**T**hree new members were appointed to the Board of Legal Specialization (BLS) as of September 12, 2005: Michael T. O'Halloran, a certified bankruptcy law specialist from San Diego; Carol P. Schaner, a certified taxation law specialist from Newport Beach; and public member Teresa Warren of TW<sup>2</sup> Marketing Consulting, San Diego.

The new officers are chair, J. Scott Bovitz, a certified bankruptcy law specialist from Los Angeles and vice-chair, Myron S. Greenberg, a certified taxation law specialist from Larkspur. Staying on as advisor is immediate past chair Alice J. MacAllister, a certified estate planning, trust and probate law specialist from San Jose.

We would also like to welcome the following new members to our Advisory Commissions: Appellate Law – Mitchell E. Abbott, Los Angeles, and Richard A. Levy, Torrance; Bankruptcy Law – Gregory M. Salvato, Los Angeles, and Larry D. Simons, Los Angeles; Criminal Law – Louis S. Katz, San Francisco, and Barry Tarlow, Los Angeles; Estate Planning, Trust and Probate Law – Ann C. Harris, San Diego, Elizabeth T. Pierson, Los Angeles, and Neil Solarz, Los Angeles; Family Law – Michael A. Fisher, Santa Ana, and Debra S. Frank, Los Angeles; Immigration and Nationality Law – public member Rohida Khan, Los Angeles, Lincoln Stone, Los Angeles, and Richard Wilner, Cerritos; Taxation Law – William A. Brandwein, Monterey, Jennifer Miller Moss, Sacramento, and Kimberly Mitchell Bott, Sacramento; and Workers' Compensation Law – Nancy J. Brown, Irvine, Robert S. Havens, Marina del Rey, and Michael K. Ward, Sacramento. ■

You will find the complete rosters of BLS and Advisory Commission members at [www.californiaspecialist.org](http://www.californiaspecialist.org). If you are interested in serving on a Commission, the BLS, or any other State Bar committee, you can download an application from the State Bar website, [www.calbar.ca.gov](http://www.calbar.ca.gov).



The application deadline is February 1, 2006.

# Melissa Brown: Renaissance Woman and Certified Workers' Compensation Specialist

**By: James W. Talley**

***Certified Family Law and Workers' Compensation Law Specialist***

**M**elissa Brown is one of California's pre-eminent Workers' Compensation Applicant's lawyers. Her pre-law experience, however, provided only faint clues as to the distinguished career in Applicants' work that she has established.

While attending Chico State in a pre-legal studies program, Melissa worked part time as a paralegal in Elder Law and Social Security law. During part of her law school years, she clerked for a Social Security administrative law judge and even conducted pre-hearing conferences. In 1979, Melissa started night law school at L.A.'s Loyola School of Law, graduating and passing the California State Bar in 1983. Initially, she joined the Pasadena Law Firm of Potter and Cohen as an associate, working in the areas of Workers' Comp, as well as Elder Law, Social Security disability and Criminal Law defense. She was introduced to the field of workers' compensation law by Bert Potter, Esq. and by Marvin Shapiro, Esq. in his USC class of 1984.

Melissa relocated to Sacramento in May of 1985 and joined the Treaster Law Firm. Her boss and mentor, Gene Treaster, a past president of the California Applicants' Attorneys Association (CAAA), taught her California Workers' Compensation Law and inspired her to pursue Applicants' work as a specialty. During her early years with the Treaster firm, she was introduced to the leadership ladder in CAAA, ultimately becoming its youngest president, at age 38, for the year 1993/1994. Prior to her presidential year, Melissa began serving as a CAAA panelist in 1986, later developing a niche

in "latest developments in the law." In 1989 and 1990, she expanded her scope in the workers' compensation legal arena by serving as a panelist in medical legal procedure, employment law, Medicare, Medi-Cal and Social Security issues. Since 1988, she has served on the CAAA Board of Governors and, until September 2003, its legislative committee. While on the Board she has worked on various issues including legislative policy, implementation of regulations, medical treatment protocols, privacy and continuing education. In September of 2004, she became co-director of education for CAAA. While

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***Melissa describes her years on the education committee as a synergistic experience pointing out that none of the speakers, including herself, were paid a dime for their services.***

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serving on the CAAA education committee, she was fortunate to serve with a very dedicated group of CAAA members in presenting educational programs to the membership. Melissa describes her years on the education committee as a synergistic experience pointing out that none of the speakers, including herself, were paid a dime for their services. They did it solely to further the proficiency of all California Applicants' attorneys in representing the interest of their clients. When asked about the drastic and adverse changes to the rights of injured workers in California, wrought by the April 19, 2004, implementation of Senate Bill 899, Melissa had plenty to say. As she puts it, "the needs of California injured workers' won't go away." She characterizes Senate Bill 899 as a "total panic reaction" demonstrating an "absence of critical thinking."

On the personal side, Melissa reports



**Melissa Brown**

that she and her husband, Don Fraulob, married on bissextile day (February 29<sup>th</sup>) in the year 2000. Clearly, Don Fraulob is a lucky guy, given the varied talents of Melissa. She is an accomplished pianist favoring pieces by Chopin, as well as varied jazz selections. Melissa and Don live on the banks of the Sacramento River and are both inveterate readers favoring murder mysteries. Though she has no biological children of her own, Melissa loves to spend time with her nephew, Don's children and grandchildren, as well as holding "project days" for their local neighborhood kids. On project days she teaches the neighborhood children how to play the piano, cook, bake, and make holiday gifts. Melissa and Don enjoy an even-handed interest in pet parenting, owning two dogs, including a terrier named Paco and a beagle named Eubie, along with felines bearing the handles of Cousin and Buster. Melissa is proud to proclaim that she is an enrolled member of the Shawnee Indian tribe.

Melissa is also president of a non-profit corporation, "Advocacy for Independence," which provides legal training to lawyers and non-lawyers who represent seniors and people with disabilities on such topics

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**Melissa Brown**

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as nursing home resident rights, Social Security and SSI issues, healthcare, and other elder/disability rights issues.

Melissa has also published a legal text book jointly with Professor Lawrence Frolik of the University of Pittsburgh School of Law entitled *Advising the*

*Elderly or Disabled Client*. First published in 1992, the book has been updated twice a year ever since, and is used as a text book in many law schools and as an attorney desk reference publication.

Melissa's husband and law partner Don is also a certified workers' compensation law specialist and together they encourage the other members of their firm to

attain their certification as legal specialists in workers' compensation. Melissa and Don's pursuit of excellence in the law is unequivocally summarized by her statement that "if you want to be the best lawyer you can be, attaining certified specialization status demonstrates that commitment." ■

## Jaws Breaker (or: Just When you Thought it Wasn't Safe to Go Back in the Courtroom . . .)

**By: John W. Munsill**

**Certified Family Law Specialist**

**S**o . . . you just went to court and lost on your/their motion and you are convinced the court is wrong. Have the jaws of justice snapped shut, or do you have a remedy—or perhaps even multiple remedies? And just how long do you have to seek relief if you can?

Let's start with some procedural basics about motions for reconsideration under Code of Civil Procedure section 1008. First, the prevailing party's attorney must prepare a formal order after hearing, submitting it to the opposing counsel for approval, and thereafter forwarding it to the court for entry. (Cal. Rules of Court, Rule 391.) Once that order has been signed and entered by the court, the prevailing party must prepare a notice of the court's ruling and serve it on opposing counsel—unless the parties agreed to waive notice and that waiver was entered in the minutes. (Code Civ. Proc. § 1019.5(a).) This notice of the formal court order may be accomplished by serving a file-stamped copy of the order. (Parris v. Cave (1985) 174 Cal.App.3d 292, 294.)

Until formal notice of the order has been served, the 10-day time limit under Code of Civil Procedure section 1008 for filing a motion for reconsideration

does not begin to run. (Code Civ. Proc. section 1008(a); Weil & Brown, CAL. PRAC. GUIDE: CIV. PRO. BEFORE TRIAL (The Rutter Group 2004) §§9:320.1 and 9:325: "A formal notice of ruling (see §9:320) is required to set the time limit running on a motion for reconsideration. The 10-day time limit runs only from "service of notice of entry" of the order. [Code Civ. Proc. § 1008(a); Advanced Bldg. Maintenance v. State Comp. Ins. Fund (1996) 49 Cal. App. 4th 1388, 1392, 57 Cal.Rptr. 2d 310, 312.]") Further, until the order after hearing is signed and entered by the court, the court retains the power to change its mind and reverse or modify its ruling. (Weil & Brown, CAL. PRAC. GUIDE: CIV. PRO. BEFORE TRIAL (The Rutter Group 2004) §9:322, citing Bernstein v. Consolidated American Ins. Co. (1995) 37 Cal.App.4th 763, 774 (disapproved on other grounds in Vandenburg v. Sup. Ct. (Centennial Ins. Co.) (1999) 21 Cal.4th 815, 841). In Bernstein a trial court which had issued a minute order denying a summary judgment motion was held to have the power to change its decision on a motion for clarification by the losing party and instead issue an order granting summary judgment.

Next suppose one of two things: (1) you were the attorney for your client at

the hearing that resulted in the order you don't like or (2) you weren't, but the client comes to you for help after the order was entered, notice was properly given, and the 10-day statutory period has already run. In short, somebody has blown it, but the client still wants you to ask the judge to think again. With your client in the great white's jaws, can you pry them open?

Initially, the prevailing wisdom in the appellate courts was that section 1008 was both jurisdictional (i.e., it absolutely limited the court's power to rethink its decisions) and the exclusive means for a party to seek modification, amendment, or revocation of an order. (See, e.g., Morite of California v. Sup. Ct. (Grayson) (1993) 19 Cal.App.4th 485,490; Gilberd v. AC Transit (1995) 32 Cal.App.4th 1494, 1499.) However, in recent years courts began questioning this "wisdom," based on the court's inherent power under Article VI, section 1, of the California Constitution to change its mind and reverse or modify its rulings either sua sponte or on a motion by an affected party until a final judgment is entered on the disputed issue. (See, e.g., Scott Co. of California v. United States Fidelity & Guaranty Insurance Company (2003) 107 Cal. App.4th 197, 132 Cal.Rptr.2d 89, 206-212; review denied July 16, 2003; Kerns

v. CSE Ins. Group (2003) 106 Cal. App.4th 368, 388-389; Case v. Lazben Fin'l Co. (2002) 99 Cal.App.4th 172, 175; Kollander Const., Inc. v. Sup. Ct. (Alvarez) (2002) 98 Cal.App.4th 304, 307; Remsen v. Lavacot (2002) 87 Cal.App.4th 421, 426.) Some districts "allowed courts to reconsider their rulings on their own motions . . . while [s]till other courts ha[d] allowed modification of rulings upon a party's motion, notwithstanding that party's failure to advance new or different facts, circumstances, or law." (Scott Co. of California v. United States Fidelity & Guaranty Insurance Company, supra, 107 Cal.App.4th at 207.)

The California Supreme Court resolved these appellate court variations on 1008's limitations on both trial courts and the parties appearing before them. In *Le Francois v. Goel* (2005) 35 Cal.4th 1094 the Supreme Court (1) distinguished cases such as *Morite of California v. Sup. Ct.* that had held 1008 limits the court's own power/jurisdiction to reconsider its prior rulings; (2) disapproved *Scott* and its predecessors that had held 1008 unconstitutional even to the extent it limits the parties' ability to file repetitive motions; and (3) agreed with the line of cases represented by *Kern v. CSE Ins. Group* that interpreted 1008 as "limiting the parties' power to file repetitive motions but not the court's authority to reconsider interim rulings on its own motion." (*Le Francois v. Goel* at p. 1107. (Note: section 1008 governs all motions to reconsider "whether the order deciding the previous matter or motion is interim or final." Code Civ. Proc. § 1008 (e). However, the Supreme Court's holding in *Le Francois* covers only motions to reconsider interim rulings. Per the Court, its holdings as to a trial court's "ability to reconsider interim orders does not necessarily apply to final orders, which present quite

different concerns." *Id.* at 1105, fn. 4. The Court's opinion offers no further guidance on the rules for reconsidering final orders.)

So . . . now we have a definitive rule as to a party's ability to seek reconsideration of at least interim orders, right? A party can seek reconsideration of entered and properly noticed interim orders only if he/she complies 100% with section 1008, including alleging new facts, circumstances, or law. Not exactly . . . . The Supreme Court gave parties a new alternative for which

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***If a court believes one of its prior interim orders was erroneous, it should be able to correct that error no matter how it came to acquire that belief.***

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there is at this time no given name. Per that Court:

We cannot prevent a party from communicating the view to a court that it should reconsider a prior ruling (although any such communication should never be ex parte). We agree that it should not matter whether the "judge has an unprovoked flash of understanding in the middle of the night" (*Remsen v. Lavacot*, supra, 87 Cal.App.4th at p. 427, 104 Cal.Rptr.2d 612) or acts in response to a party's suggestion. If a court believes one of its prior interim orders was erroneous, it should be able to correct that error no matter how it came to acquire that belief. For example, nothing would prevent the losing party from asking the court at a status conference to reconsider a ruling. (See *Weil & Brown*, Cal. Practice Guide: Civil Procedure Before Trial, supra, § 9:327.8, p. 9(1)-107.) But a party may not file a motion to reconsider that has procedural significance if it does not satisfy the requirements of section 437(c), subdivision (f)(2), or 1008. The court need not rule on any suggestion that it should

reconsider a previous ruling and, without more, another party would not be expected to respond to such a suggestion. As one court explained, "were a party to suggest that the court reconsider a motion, the court would have every right to do so, even if that required the party to bring a new motion. In that circumstance, the responding party would not bear the burden of preparing opposition unless the court indicated an interest in reconsideration." (*Schachter v. Citigroup, Inc.*, supra, 126 Cal.App.4th at p. 739, 23 Cal.Rptr.3d 920.) (*Le Francois v. Goel*, supra, 35 Cal.4th at p. 1108.)

Is this oral "suggestion" an old fashioned "speaking motion"? It would seem not since even if it were a "speaking motion," the Supreme Court is quite clear a party cannot make a "motion" for reconsideration that does not meet 1008's requirements and, therefore, such a "speaking motion" would appear to be prohibited. Perhaps the best name would be the one the Court gives, i.e., a "suggestion".

Where does all of this leave us? If there is only a minute order, file promptly; you haven't entered the 1008 10-day zone. If notice of entry of the formal order has already come, within 1008's 10-day time zone, armed with new facts, circumstances, or law, file a proper motion under 1008. If you have no new facts, circumstances, or law, or your 10-day time limit has already run, don't make a motion. (Violation of 1008 subjects the violator to contempt and sanctions under Code of Civil Procedure section 128.7. Code Civ. Proc. § 1008 (d).) Instead, "suggest" to the court (carefully, diplomatically, in the presence of opposing counsel) that the court might want to rethink its ruling and either set a hearing on its own (the safest route) or "invite" you to file a new motion. On this lat-

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# Highest and Lowest: Family Law Certified Specialists

**By: Harold J. Cohn**

## ***Certified Family Law Specialist***

**F**our Certified Family Law Specialists (CFLS) in California have some things in common. Two of them are sitting judges and two are attorneys. Two have the lowest bar numbers of all of the Family Law Certified Specialists in the state and two have the highest bar numbers. In the state, as of July 05, there are 1025 CFLS attorneys and 38 judicial officers.

**Judge Paul Gutman**, a CFLS, currently sits on the Los Angeles Superior Court. He holds the distinction of holding the lowest bar number of any judicial officer who is a Certified Family Law Specialist.

Judge Gutman's abbreviated cv is as follows:

- Born New York City, October 29, 1931;
- Graduated from Bronx High School of Science, January 1949;
- Awarded B.A. in triple major; Political Science, History and English, N.Y.U., 1953;
- Awarded J.D. Degree from N.Y.U. School of Law, 1955;
- U.S. Navy, 1955-1957, awarded China Service Medal;
- Admitted California Bar, June 1958 (later received "AV" rating, Martindale Hubbell), rated one of the best lawyers in America;
- Certified as Family Law Specialist, 1980;
- Chair, Family Law Section, Los Angeles County Bar Association;
- Chair, Family Law Section, Beverly Hills Bar Association;
- Appointed Judge of the Superior Court, March, 1993

"As for why I chose to become a

certified family law specialist, it was really a matter of practicality. I came to the practice of family law somewhere in mid-career having up to then been a trial lawyer representing banks, savings and loans and real estate developers. While I thoroughly enjoyed being a trial lawyer, I came to recognize that clients' motivations in litigation rarely corresponded with that of their lawyers. Dealing with "management" was often less than gratifying and the lawyer's excitement at the prospect of a vigorously contested jury trial was usually in conflict with the corporate client's desire to settle and get on with business. Family law presented itself as a way to be more closely involved in the decision-making process.

When the State Bar proposed including family law as a "specialty," I was already exclusively dedicated to a family law practice. Learning that my learned colleagues were going to sit for the certification examination, I felt that I'd better get on the train before I got run over by it.

In 1980 the requirements for certification were, as I recall them, rather more demanding than today. One had to attest that one's practice was at least 70% family law, that one had tried a minimum number of cases to judgment (I think at least 5), had tried a minimum number of contested OSC's and drafted a minimum number of marital settlement agreements in addition to satisfying CLE requirements. The examination was preceded by several days of lecture by the indefatigable Steve Adams and no small amount of independent study to prepare for it.

I am happy that I took and passed the examination and was sufficiently qualified to become certified. Did it make me a better lawyer? I think so. Did it serve to increase my income? Not that I can



**Harold J. Cohn**

measure, but the real payment came in the form of having done a job well. Did it make me a better judge when I sat in Family Law? You'll have to ask the lawyers. It did, however, make me appreciate it when a family law specialist appeared before me because I knew the investment and commitment that such certification evidenced. I recommend it to all!"

**Judge Katrina West**, holds the distinction of having the highest bar number for a sitting judicial officer who is also a CFLS

Judge West sits in the San Bernardino Court.

Her brief cv:

- 1986 Bachelor of Arts, Psychology and Sociology, Bryn Mawr College, Bryn Mawr, Pennsylvania
- 1990 Juris Doctor, University of California, Los Angeles School of Law
- 1990-1999 Associate Attorney, Covington & Crowe, LLP, Ontario, California
- 1995 Certified as Family Law Specialist
- 1999-2001 Partner, Covington & Crowe, LLP, Ontario, California Practice in family law and complex family law appeals



- Practice in family law and complex family law appeals
- 2001 (December) Appointed to the Superior Court of California, San Bernardino County

I asked Judge West how being a certified family law specialist has helped her in her career pre and post bench appointment.

"As a new attorney, it gave me additional credibility with well-established family law attorneys because it showed my commitment to practice family law at the highest levels of execution and competition.

As a young attorney, it gave potential clients additional confidence that, in spite of my age, I had the qualifications to oppose more experienced attorneys.

As an applicant for a judicial appointment, it showed that I had achieved expertise in and a commitment to mastery of an area of the law. And I believe this was seen as an accomplishment, especially because I did not have experience practicing in any other area of the law.

As a new family law judge, it may have provided some comfort to the attorneys who were not familiar with me as a practitioner, as well as to the litigants who appeared before me, by demonstrating that not only had I practiced family law for several years, but had achieved a certain level of proficiency in the area."

**Thomas W. Erwin** has the highest bar number for a CFLS practicing attorney. He is an associate in the family law firm of Minyard & Morris in Orange County.

His brief cv:

- Born: Roanoke, Virginia April 24, 1969;
- University of Virginia, BA, 1991;
- Wake Forest University School of Law, JD, 1995;
- Member of the Virginia State Bar in October of 1995;
- U.S. Navy JAG Corps 1995-2000;
- Member of the State Bar of California in April of 2000;
- Family Law firm in Orange County Minyard & Morris, LLP 2000 – Present;

"I wanted to become a certified specialist for a myriad of reasons.

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As a certified specialist, I hoped to create my own professional reputation and add to the reputation of the firm. For anyone looking to grow professionally in his or her family law practice, becoming a certified specialist is a great way to jump-start your career

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First I concluded that becoming a certified specialist would help me, as a somewhat younger attorney, establish credibility with potential family law clients; I also felt that CFLS status would enhance my reputation and credibility in the family law community and with the judicial officers as I developed a name for myself.

Coming from the firm of Minyard & Morris, one of the two largest family law firms in Orange County, I benefit from its outstanding reputation, which has been established over many years.

As a certified specialist, I hoped to create my own professional reputation and add to the reputation of the firm. For anyone looking to grow professionally in his or her family law practice, becoming a certified specialist is a great way to jump-start your career."

**Sorrell Trope** is the senior partner of the 26 attorney firm of Trope and Trope. This exclusively family law firm, located in Los Angeles, is the largest family law firm in the State of California, if not the nation.

Sorrell's abbreviated cv over the past 55 years notes in part:

- University of Southern California, (A.B., 1947);

- University of Southern California, (J.D., 1949);
- Certified as Family Law Specialist, July 1980
- Recipient: Los Angeles County Bar Spencer Brandeis Award for outstanding contribution to the practice of family law, 1998;
- Fellow, American Academy of Matrimonial Lawyers;
- Fellow, International Academy of Matrimonial Lawyers;
- Los Angeles County (Former Chair and Member, Executive Committee, Family Law Section, 1980-2001, 2000—2005)

Since Sorrell Trope was already one of the top family law lawyers, I asked Sorrell why he thought it was important to become a CFLS.

"It insures that a lawyer who holds himself out as having a high degree of expertise is committed to far more rigorous and continuing requirements of maintaining a level of knowledge in the field. The additional requirement of continuing legal education, over and above that of a general practitioner, equates to an increased and sustained competence level for the attorney."

Asked why he urges all members of his firm to become CFLS, he answered that

"We encourage all of our associates to become CFLS because clients will often inquire as to whether, in addition to the lead attorney handling their case, the associate is a CFLS"

Whether you are a new attorney or seasoned veteran, being a CFLS is for you. ■

## Public Members

### Continued from Page 1

Marshall donates time and resources to the Board of Legal Specialization. He believes that certified lawyers increase the public's respect for the profession and improve access to justice.

Harriet Scott is the principal of Stage Presence in San Francisco. She is an actor and director and, for the last ten years, has coached professionals in all industries to learn communication strategies that enable them to become more dynamic presenters. Harriet's basic premise is that, in order to communicate effectively, speakers must manage their emotional state while presenting and building a strong connection between their content and their listeners' core concerns.

For the past seven years, Harriett has taught a class entitled, "Courtroom as Theater" as an adjunct professor at Golden Gate University, School of Law. Harriet came into contact with the BLS through her work as a State Bar approved provider of continuing legal education.

Harriet sees the BLS as a bridge between consumers and attorneys. She believes that legal specialization will help consumers feel more confident about their options when looking for legal counsel. She wishes to assist the BLS in getting this message through to the public.

Our newest member, Teresa Y. Warren, is a 25-year veteran of professional services marketing. Before founding TW<sup>2</sup> Marketing in 1992, Teresa was the marketing director for a large San Diego law firm (one of the first individuals to hold such a position in the U.S.) and served as an account executive at two local public relations and advertising firms.

With Teresa's leadership, TW<sup>2</sup> has grown to represent many profession-

al service firms, business-to-business enterprises and not-for-profit organizations. The firm provides marketing solutions while working closely with clients to develop customized programs that highlight each client's individual goals. At TW<sup>2</sup> the emphasis is "enjoy what we do, do it well and always strive for excellence."

Active in the community, Teresa is currently on the board of the San Diego County Bar Foundation. She is a member of the Public Relations Committee of the San Diego Child Abuse Prevention Foundation, the Asian Business Association's Annual Dinner Committee, the writing staff of *San Diego Lawyer Magazine*, and an active participant in the Stephen Ministries.

When she's not attending meetings, writing marketing plans or sending out news releases, Teresa enjoys reading, traveling and spending time with her husband of 24 years, Tom, and their sons, Andy (19) and Kyle (15).

George H. Coughlin II served as chairman of the Finance Subcommittee of the Board of Legal Specialization. From 1994 to 1997 he served as the public member of the Estate Planning, Trust and Probate Law Advisory Commission. Immediately thereafter, George served three years as the public member of the Taxation Law Advisory Commission. In September 2000, he began his just concluded five-year term as a public member of the BLS.

When not working for the BLS, George is a registered Investment Advisor who provides comprehensive financial planning for clients that are retired as well as those who have recently lost a spouse, parent or close relative. George also offers tax-planning assistance designed to optimize a client's distributions from qualified plans and IRA's, and is licensed by the State of California as a life and disability insurance agent and a variable contract agent. George is a

1965 graduate of California Polytechnic State University in San Luis Obispo and earned his MBA at the University of Oregon two years later. He resides with his family in Alamo, California, and his civic activities are centered on the Boy Scouts of America. His numerous contributions to Scouting have been recognized with a District Award of Merit. In his leisure moments, George loves to fly fish, tie flies and backpack. George has enjoyed serving on the BLS, finding it fun to be with a group of bright people. He also believes that the BLS is an integral part of the Bar because it enhances the expertise of lawyers throughout the State and therefore serves an important civic function.

Each of the public members of the BLS adds a unique perspective as to how the Legal Specialization Program of the State Bar can best serve the people of California. We are very fortunate to have them, and applaud their sense of public duty. ■

## Corporate Discounts

Members of the State Bar are automatically entitled to many benefits offered by the Foundation of the State Bar of California.

Discounts offered by corporate sponsors of the foundation apply to such services as overnight express mail, legal publishing, credit cards, home loans and magazine subscriptions.

Contact:  
Tel. 415-856-0780  
[www.foundationstatebarcal.org](http://www.foundationstatebarcal.org)

# Board of Legal Specialization Annual Reception

**O**n September 9, 2005, the Board of Legal Specialization (BLS) held its annual reception to honor 20 and 30-year certified specialists and also those specialists who have become bench officers during the previous year. The breakfast reception was held at the San Diego Convention Center in conjunction with the State Bar Annual Meeting. One hundred twenty-eight 20-year specialists, 44 30-year specialists, and three judges were eligible this year and approximately 15 honorees attended the reception, along with members of the Board of Governors, the State Bar Executive staff, and invited guests that support the specialization program. Presenting the 20-year pins and 30-year commemorative watches was the outgoing chair of the BLS, Alice MacAllister. The judges received framed certificates recognizing their contribution to the Legal Specialization Program.

Featured speakers at the reception included Richard Lederer, co-host of A Way With Words, broadcast on KPBS in San Diego, and author of more than 3000 books and articles about language and humor. Mr. Lederer kept the audience in stitches with stories spiced with his unique humor and was followed by Richard Dombrow and Michael Ferguson, both former BLS chairs, who gave a presentation on the benefits of certification. ■



*Featured Speakers*

*Michael Ferguson (left) and Richard Dombrow (right)*



*Featured speaker*

*Richard Lederer*



*30-year Certified Specialists*

*Kenneth Clayman and Louis Daraban*



*20-year Certified Specialists*

*Front row: Douglas Cicione, Marc Tovstein, Anne Marshall, Arnold Breyer, Loraine Gollub and Phillip Alpert.*

*Back row: James Preston, John Kuntz, Kim Gilbert, Eric Klein, Jean Farley, Linda Wisotsky and Richard Rosen*



*The Judges*

*The Honorable Linda Lofthus and  
The Honorable Loren McMaster*



## Public Members

*Continued from Page 7*

ter, perhaps more risky approach, the Supreme Court's favorable quote from Schachter above seems to say that if the trial court's own interest in reconsidering its order "requires a party to file a new motion," then a party's motion filed at the court's request won't have to comply with 1008 since it was really the court's idea, not yours. In any event, once the court accepts your "suggestion" as its own idea, all you need is a briefing schedule and a date for hearing based on the court's "flash of insight" provoked by your subtle nudging. Talk about opportunities for clever lawyering! We'll all be waiting for the first published appellate opinion on a successful "suggestion for reconsideration". Good luck—but watch the waters for dorsal fins. ■



To contribute to the Digest,  
please e-mail Brad Watson at  
[brad.watson@calbar.ca.gov](mailto:brad.watson@calbar.ca.gov)

**The Legal Specialization Digest is a bi-annual newsletter written by and for certified specialists, containing articles of interest to legal specialists. The Digest also contains periodic updates on the certification program, general information from the State Bar and the Board of Legal Specialization, columns from the BLS Chair and BLS members, attorney profiles, and more.**

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## Legal Specialization Digest

Board of Legal Specialization  
State Bar of California  
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San Francisco, CA  
Permit No. 4078

